IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.BALAKRISHNAN NAIR
&
THE HONOURABLE MR. JUSTICE T.R.RAMACHANDRAN NAIR

WEDNESDAY, THE 7TH NOVEMBER 2007 / 16TH KARTHIKA 1929

WP(C).No. 28422 of 2007(H)

PETITIONER:

SANKARA PILLAI VASU PILLAI,
KANDOTHUVELIYIL, WARD NO.3,
AROOR PANCHAYAT, AROOR MURI,
AROOR VILLAGE.

BY ADV. SRI.CIBI THOMAS

RESPONDENTS:
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1. **THRESSIA, W/O SEBASTIAN,**
   PUTHENPURACKAL, WARD NO.3,
   AROOR PANCHAYAT, AROOR.

2. **KUNJUMON, S/O SEBASTIAN,**
   KOCHUPURACKAL, WAR NO.6, -DO-

3. **SHAJI, S/O JOHN,**
   KANAKKATH FROM KARUTHATHARAYIL,
   WARD NO.3, -DO-

4. **NANAPPAN KAMBAKKARAN ALIAS**
   KARUNAKARAN KAMBAKKARAN,
   PRESIDENT, KUDUMBAMVAKA PUTHUVARANADU
   DEVASWOM, CHIRAMEL, AROOR MURI, AROOR VILLAGE.

5. S.I. OF POLICE,
AROOR POLICE STATION.

6. THE SUPERINTENDENT OF POLICE,
ALAPPUZHA.

*ADDL.R7 IS IMPLEADED:

R7. ANIL, SON OF XAVIER,
PULICKAL FROM KARUTHUMTHARAYIL,
WARD NO.6, AROOR PANCHAYATH,
AROOR MURI, ...DO.. VILLAGE,
ALAPPUZHA DISTRICT.

(*ADDL.R7 IS IMPLEADED AS PER ORDER DTD. 7/11/2007
IN I.A.NO.14661/2007)

BY GOVERNMENT PLEADER SRI. SALIM.P.A for R5
BY ADV. SRI.R. AZAD BABU for R7

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 07/11/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

KSS

WPC.NO.28422/2007 H

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P1: **COPY OF THE JUDGMENT IN O.P.39867/02 OF THIS HON'BLE COURT DTD. 13/02/03.**

EXT.P2: **COPY OF THE PHOTOGRAPHS SHOWING THE PRESENT POSITION OF THE PETITIONER'S BUILDING.**

EXT.P2(A): **COPY OF THE PHOTOGRAPHS SHOWING THE PRESENT POSITION OF THE PETITIONER'S BUILDING.**

EXT.P3: **COPY OF THE COMPLAINT FILED BY THE PETITIONER BEFORE THE 5TH RESPONDENT.**

/TRUE COPY/

P.S.TO JUDGE

KSS

K.BALAKRISHNAN NAIR &

T.R.RAMACHANDRAN NAIR, JJ.

W.P.(C) NO. 28422 OF 2007-H

Dated 7th November, 2007.

JUDGMENT

Balakrishnan Nair, J.

The petitioner claims ownership and possession of a building in R.S.No.11/2 of Aroor Village. The respondents 1 to 4 are his neighbours. When they tried to trespass into the property earlier, the petitioner moved the civil court by filing O.S.No.475/97 and obtained a judgment and decree against them. The party respondents filed A.S.No.92/02 against the said judgment before the Sub Court, Cherthala and it is pending even now. When the petitioner wanted to construct a boundary wall after fixing the boundary, the party respondents obstructed the same. As per the direction issued by this Court in Ext.P1 judgment, the Taluk Surveyor conducted survey of the petitioner's property and fixed the boundary. Now, a portion of the building has collapsed, as evident from Exts.P2 and P2(A). The petitioner wants to reconstruct the damaged portion of the building. But, the respondents 1 to 4 are obstructing to the same. Therefore, he has

preferred Ext.P3 representation before the police, seeking protection for reconstruction of the building. Since the police did not extend any helping hand, this writ petition is filed, seeking appropriate reliefs.

2. The learned Government Pleader, upon instructions, submitted that pursuant to Ext.P3, the police called the parties to the Police Station. But, the counter petitioners in Ext.P3 did not appear before the police. It is also submitted that the petitioner is residing and doing his business very near to the Police Station. If there is any threat to his life, he can inform the police, it is submitted.

3. The additional 7th respondent submitted that the petitioner has no claim over the property and it, in fact, belongs to the said respondent. It is also submitted that the said respondent has filed a suit to establish his right over the property.

4. Having regard to the facts of the case, we feel that the police cannot be directed to interfere in the civil dispute between the petitioner and the party respondents. It has to be resolved before the appropriate forum. The petitioner wants to repair his building. In the face of the obstruction from the part of the party respondents, he may move the competent civil court and get appropriate orders. The civil court is competent to address the police to render necessary assistance to enforce its orders. Subject to that

right, the writ petition is dismissed.

K.BALAKRISHNAN NAIR, JUDGE.

T.R.RAMACHANDRAN NAIR, JUDGE.

Nm/